



General Assembly

Substitute Bill No. 7167

January Session, 2017

* _____HB07167PH_____032317_____*

AN ACT CONCERNING BEHAVIOR ANALYSTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-185i of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2018*):

3 (a) As used in this section, sections 2 to 5, inclusive, of this act and
4 section 19a-14, as amended by this act:

5 (1) "Behavior Analyst Certification Board" means the nonprofit
6 corporation established to meet the professional credentialing needs of
7 behavior analysts, governments and consumers of behavior analysis
8 services and accredited by the National Council for Certifying
9 Agencies in Washington, D.C., or any successor national accreditation
10 organization;

11 [(2) "Board certified behavior analyst (BCBA)" means a person who
12 has been certified as a behavior analyst by the Behavior Analyst
13 Certification Board; and

14 (3) "Board certified assistant behavior analyst (BCABA)"]

15 (2) "Behavior analysis" means the design, implementation and
16 evaluation of environmental modifications, using behavior stimuli and
17 consequences, including the use of direct observation, measurement

18 and functional analysis of the relationship between the environment
19 and behavior, to produce socially significant improvement in human
20 behavior, but does not include: (A) Psychological testing, (B)
21 neuropsychology, (C) cognitive therapy, (D) sex therapy, (E)
22 psychoanalysis, (F) hypnotherapy, (G) cognitive behavioral therapy,
23 (H) psychotherapy, or (I) long-term counseling as treatment
24 modalities;

25 (3) "Behavior analyst" means a person who is licensed to practice
26 behavior analysis under the provisions of section 3 or 4 of this act; and

27 (4) "Assistant behavior analyst" means a person who has been
28 certified as an assistant behavior analyst by the Behavior Analyst
29 Certification Board to assist in the practice of behavior analysis under
30 the supervision of a behavior analyst.

31 (b) No person, unless certified by the Behavior Analyst Certification
32 Board as a [board certified behavior analyst or a] board certified
33 assistant behavior analyst, shall use in connection with his or her name
34 or place of business: (1) The words ["board certified behavior analyst",
35 "certified behavior analyst",] "board certified assistant behavior
36 analyst" or "certified assistant behavior analyst", (2) the letters [,
37 "BCBA" or] "BCABA", or (3) any words, letters, abbreviations or
38 insignia indicating or implying that he or she is a [board certified
39 behavior analyst or] board certified assistant behavior analyst or in any
40 way, orally, in writing, in print or by sign, directly or by implication,
41 represent himself or herself as a [board certified behavior analyst or]
42 board certified assistant behavior analyst. Any person who violates the
43 provisions of this section shall be guilty of a class D felony. For the
44 purposes of this section, each instance of contact or consultation with
45 an individual which is in violation of any provision of this section shall
46 constitute a separate offense.

47 Sec. 2. (NEW) (*Effective January 1, 2018*) (a) No person may practice
48 behavior analysis unless licensed pursuant to section 3 or 4 of this act.

49 (b) No person may use the title "behavior analyst" or make use of
50 any title, words, letters or abbreviations that may reasonably be
51 confused with licensure as a behavior analyst unless such person is
52 licensed pursuant to section 3 or 4 of this act.

53 (c) The provisions of this section shall not apply to a person who (1)
54 provides behavior analysis or assists in the practice of behavior
55 analysis while acting within the scope of practice of the person's
56 license and training, provided the person does not hold himself or
57 herself out to the public as a behavior analyst, (2) is a student enrolled
58 in a behavior analysis educational program accredited by the Behavior
59 Analyst Certification Board, or a graduate education program in which
60 behavior analysis is an integral part of the student's course of study
61 and such student is performing such behavior analysis or assisting in
62 behavior analysis under the direct supervision of a behavior analyst,
63 (3) is an instructor in a course approved by the Behavior Analyst
64 Certification Board, (4) is an assistant behavior analyst working under
65 the supervision of a behavior analyst in accordance with the standards
66 established by the Behavior Analyst Certification Board, (5)
67 implements an intervention based on behavior analysis under the
68 supervision of a behavior analyst, or (6) is a family member, guardian
69 or caretaker implementing a behavior analysis treatment plan under
70 the direction of a behavior analyst.

71 Sec. 3. (NEW) (*Effective January 1, 2018*) (a) The Commissioner of
72 Public Health shall grant a license as a behavior analyst to any
73 applicant who furnishes evidence satisfactory to the commissioner that
74 such applicant is certified as a behavior analyst by the Behavior
75 Analyst Certification Board. The commissioner shall develop and
76 provide application forms. The application fee shall be three hundred
77 fifty dollars.

78 (b) Licenses issued under this section may be renewed biennially.
79 The fee for such renewal shall be one hundred seventy-five dollars.
80 Each behavior analyst applying for license renewal shall furnish
81 evidence satisfactory to the commissioner of having current

82 certification with the Behavior Analyst Certification Board.

83 Sec. 4. (NEW) (*Effective January 1, 2018*) A person, who is not eligible
84 for licensure under section 3 of this act, may apply for licensure by
85 endorsement as a behavior analyst. Such applicant shall present
86 evidence satisfactory to the commissioner that the applicant is licensed
87 or certified as a behavior analyst, or as a person entitled to perform
88 similar services under a different designation, in another state or
89 jurisdiction that has requirements for practicing in such capacity that
90 are substantially similar to, or higher than, those of this state and that
91 there are no disciplinary actions or unresolved complaints pending.

92 Sec. 5. (NEW) (*Effective January 1, 2018*) The Commissioner of Public
93 Health may take any disciplinary action set forth in section 19a-17 of
94 the general statutes against a behavior analyst for any of the following
95 reasons: (1) Failure to conform to the accepted standards of the
96 profession; (2) conviction of a felony; (3) fraud or deceit in obtaining or
97 seeking reinstatement of a license to practice behavior analysis; (4)
98 fraud or deceit in the practice of behavior analysis; (5) negligent,
99 incompetent or wrongful conduct in professional activities; (6)
100 physical, mental or emotional illness or disorder resulting in an
101 inability to conform to the accepted standards of the profession; (7)
102 alcohol or substance abuse; or (8) wilful falsification of entries in any
103 hospital, patient or other record pertaining to behavior analysis. The
104 commissioner may order a license holder to submit to a reasonable
105 physical or mental examination if his or her physical or mental
106 capacity to practice safely is the subject of an investigation. The
107 commissioner may petition the superior court for the judicial district of
108 Hartford to enforce such order or any action taken pursuant to section
109 19a-17 of the general statutes. The commissioner shall give notice and
110 an opportunity to be heard on any contemplated action under section
111 19a-17 of the general statutes.

112 Sec. 6. Subsection (c) of section 19a-14 of the general statutes are
113 repealed and the following is substituted in lieu thereof (*Effective*
114 *January 1, 2018*):

115 (c) No board shall exist for the following professions that are
116 licensed or otherwise regulated by the Department of Public Health:

117 (1) Speech and language pathologist and audiologist;

118 (2) Hearing instrument specialist;

119 (3) Nursing home administrator;

120 (4) Sanitarian;

121 (5) Subsurface sewage system installer or cleaner;

122 (6) Marital and family therapist;

123 (7) Nurse-midwife;

124 (8) Licensed clinical social worker;

125 (9) Respiratory care practitioner;

126 (10) Asbestos contractor and asbestos consultant;

127 (11) Massage therapist;

128 (12) Registered nurse's aide;

129 (13) Radiographer;

130 (14) Dental hygienist;

131 (15) Dietitian-Nutritionist;

132 (16) Asbestos abatement worker;

133 (17) Asbestos abatement site supervisor;

134 (18) Licensed or certified alcohol and drug counselor;

135 (19) Professional counselor;

- 136 (20) Acupuncturist;
- 137 (21) Occupational therapist and occupational therapist assistant;
- 138 (22) Lead abatement contractor, lead consultant contractor, lead
139 consultant, lead abatement supervisor, lead abatement worker,
140 inspector and planner-project designer;
- 141 (23) Emergency medical technician, advanced emergency medical
142 technician, emergency medical responder and emergency medical
143 services instructor;
- 144 (24) Paramedic;
- 145 (25) Athletic trainer;
- 146 (26) Perfusionist;
- 147 (27) Master social worker subject to the provisions of section 20-
148 195v;
- 149 (28) Radiologist assistant, subject to the provisions of section 20-74tt;
- 150 (29) Homeopathic physician;
- 151 (30) Certified water treatment plant operator, certified distribution
152 system operator, certified small water system operator, certified
153 backflow prevention device tester and certified cross connection
154 survey inspector, including certified limited operators, certified
155 conditional operators and certified operators in training;
- 156 (31) Tattoo technician; [and]
- 157 (32) Genetic counselor; and
- 158 (33) Behavior analyst.

159 The department shall assume all powers and duties normally vested
160 with a board in administering regulatory jurisdiction over such

161 professions. The uniform provisions of this chapter and chapters 368v,
162 369 to 381a, inclusive, 383 to 388, inclusive, 393a, 395, 398, 399, 400a
163 and 400c, including, but not limited to, standards for entry and
164 renewal; grounds for professional discipline; receiving and processing
165 complaints; and disciplinary sanctions, shall apply, except as otherwise
166 provided by law, to the professions listed in this subsection.

167 Sec. 7. Subdivision (6) of section 20-413 of the general statutes is
168 repealed and the following is substituted in lieu thereof (*Effective*
169 *January 1, 2018*):

170 (6) The provision of applied behavior analysis services by a [board
171 certified] licensed behavior analyst or a board certified assistant
172 behavior analyst, as such terms are defined in section 20-185i, as
173 amended by this act, in accordance with section 10-76ii.

174 Sec. 8. Section 10-76ii of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective January 1, 2018*):

176 [(a)] On and after July 1, 2012, a local or regional board of education
177 that is responsible for providing special education and related services
178 to a child, pursuant to section 10-76a, shall provide applied behavior
179 analysis services to any such child with autism spectrum disorder if
180 the individualized education program or plan pursuant to Section 504
181 of the Rehabilitation Act of 1973 requires such services. [(1) Such
182 services shall be provided by a person who is, subject to the provisions
183 of subsection (b) of this section, (A) licensed by the Department of
184 Public Health or certified by the Department of Education and such
185 services are within the scope of practice of such license or certificate, or
186 (B) certified by the Behavior Analyst Certification Board as a behavior
187 analyst or assistant behavior analyst, provided such assistant behavior
188 analyst is working under the supervision of a certified behavior
189 analyst. (2) A teacher or paraprofessional may implement the
190 individualized education program or plan pursuant to Section 504 of
191 the Rehabilitation Act of 1973 providing for such applied behavior
192 analysis services, provided such teacher or paraprofessional is under

193 the supervision of a person described in subdivision (1) of this
194 subsection. For purposes of this section, "applied behavior analysis"
195 means the design, implementation and evaluation of environmental
196 modifications, using behavioral stimuli and consequences, including
197 the use of direct observation, measurement and functional analysis of
198 the relationship between the environment and behavior, to produce
199 socially significant improvement in human behavior.

200 (b) If the Commissioner of Education determines that there are
201 insufficient certified or licensed personnel available to provide applied
202 behavior analysis services in accordance with the provisions of
203 subsection (a) of this section, the commissioner may authorize the
204 provision of such services by persons who: (1) Hold a bachelor's
205 degree in a related field; (2) have completed (A) a minimum of nine
206 credit hours of coursework from a course sequence approved by the
207 Behavior Analyst Certification Board, or (B) coursework that meets the
208 eligibility requirement to sit for the board certified behavior analyst
209 examination; and (3) are supervised by a board certified behavior
210 analyst.

211 (c)] Nothing in this section shall be construed to require the
212 inclusion of applied behavior analysis services in an individualized
213 education program or plan pursuant to Section 504 of the
214 Rehabilitation Act of 1973.

215 Sec. 9. Subsection (a) of section 10-145t of the general statutes is
216 repealed and the following is substituted in lieu thereof (*Effective*
217 *January 1, 2018*):

218 (a) For purposes of this section, "school support staff" means any
219 person employed by a local or regional board of education as a [board
220 certified] behavior analyst or [board certified] assistant behavior
221 analyst, as such terms are defined in section 20-185i, as amended by
222 this act, athletic coach, as defined in section 10-149d, or school
223 paraprofessional.

224 Sec. 10. Subsections (a) to (c), inclusive, of section 38a-488b of the
225 general statutes are repealed and the following is substituted in lieu
226 thereof (*Effective January 1, 2018*):

227 (a) As used in this section:

228 (1) "Applied behavior analysis" means the design, implementation
229 and evaluation of environmental modifications, using behavioral
230 stimuli and consequences, including the use of direct observation,
231 measurement and functional analysis of the relationship between
232 environment and behavior, to produce socially significant
233 improvement in human behavior.

234 (2) "Autism spectrum disorder services provider" means any person,
235 entity or group that provides treatment for an autism spectrum
236 disorder pursuant to this section.

237 (3) "Autism spectrum disorder" means "autism spectrum disorder"
238 as set forth in the most recent edition of the American Psychiatric
239 Association's "Diagnostic and Statistical Manual of Mental Disorders".

240 (4) "Behavioral therapy" means any interactive behavioral therapies
241 derived from evidence-based research and consistent with the services
242 and interventions designated by the Commissioner of Social Services
243 pursuant to subsection (l) of section 17a-215c, including, but not
244 limited to, applied behavior analysis, cognitive behavioral therapy, or
245 other therapies supported by empirical evidence of the effective
246 treatment of individuals diagnosed with autism spectrum disorder,
247 that are: (A) Provided to children less than twenty-one years of age;
248 and (B) provided or supervised by (i) a licensed behavior analyst, [who
249 is certified by the Behavior Analyst Certification Board,] (ii) a licensed
250 physician, or (iii) a licensed psychologist. For the purposes of this
251 subdivision, behavioral therapy is "supervised by" such licensed
252 behavior analyst, licensed physician or licensed psychologist when
253 such supervision entails at least one hour of face-to-face supervision of
254 the autism spectrum disorder services provider by such licensed

255 behavior analyst, licensed physician or licensed psychologist for each
256 ten hours of behavioral therapy provided by the supervised provider.

257 (5) "Diagnosis" means the medically necessary assessment,
258 evaluation or testing performed by a licensed physician, licensed
259 psychologist or licensed clinical social worker to determine if an
260 individual has autism spectrum disorder.

261 (b) Each individual health insurance policy providing coverage of
262 the type specified in subdivisions (1), (2), (4), (11) and (12) of section
263 38a-469 that is delivered, issued for delivery, renewed, amended or
264 continued in this state shall provide coverage for the diagnosis and
265 treatment of autism spectrum disorder. For the purposes of this section
266 and section 38a-482a, autism spectrum disorder shall be considered an
267 illness.

268 (c) Such policy shall provide coverage for the following treatments,
269 provided such treatments are (1) medically necessary, and (2)
270 identified and ordered by a licensed physician, licensed psychologist
271 or licensed clinical social worker for an insured who is diagnosed with
272 autism spectrum disorder, in accordance with a treatment plan
273 developed by a licensed behavior analyst, [who is certified by the
274 Behavior Analyst Certification Board,] licensed physician, licensed
275 psychologist or licensed clinical social worker, pursuant to a
276 comprehensive evaluation or reevaluation of the insured:

277 (A) Behavioral therapy;

278 (B) Prescription drugs, to the extent prescription drugs are a
279 covered benefit for other diseases and conditions under such policy,
280 prescribed by a licensed physician, a licensed physician assistant or an
281 advanced practice registered nurse for the treatment of symptoms and
282 comorbidities of autism spectrum disorder;

283 (C) Direct psychiatric or consultative services provided by a
284 licensed psychiatrist;

285 (D) Direct psychological or consultative services provided by a
286 licensed psychologist;

287 (E) Physical therapy provided by a licensed physical therapist;

288 (F) Speech and language pathology services provided by a licensed
289 speech and language pathologist; and

290 (G) Occupational therapy provided by a licensed occupational
291 therapist.

292 Sec. 11. Subsections (a) to (c), inclusive, of section 38a-514b of the
293 general statutes are repealed and the following is substituted in lieu
294 thereof (*Effective January 1, 2018*):

295 (a) As used in this section:

296 (1) "Applied behavior analysis" means the design, implementation
297 and evaluation of environmental modifications, using behavioral
298 stimuli and consequences, including the use of direct observation,
299 measurement and functional analysis of the relationship between
300 environment and behavior, to produce socially significant
301 improvement in human behavior.

302 (2) "Autism spectrum disorder services provider" means any person,
303 entity or group that provides treatment for autism spectrum disorder
304 pursuant to this section.

305 (3) "Autism spectrum disorder" means "autism spectrum disorder"
306 as set forth in the most recent edition of the American Psychiatric
307 Association's "Diagnostic and Statistical Manual of Mental Disorders".

308 (4) "Behavioral therapy" means any interactive behavioral therapies
309 derived from evidence-based research and consistent with the services
310 and interventions designated by the Commissioner of Social Services
311 pursuant to subsection (l) of section 17a-215c, including, but not
312 limited to, applied behavior analysis, cognitive behavioral therapy, or

313 other therapies supported by empirical evidence of the effective
314 treatment of individuals diagnosed with autism spectrum disorder,
315 that are: (A) Provided to children less than twenty-one years of age;
316 and (B) provided or supervised by (i) a licensed behavior analyst,
317 [who is certified by the Behavior Analyst Certification Board,] (ii) a
318 licensed physician, or (iii) a licensed psychologist. For the purposes of
319 this subdivision, behavioral therapy is "supervised by" such licensed
320 behavior analyst, licensed physician or licensed psychologist when
321 such supervision entails at least one hour of face-to-face supervision of
322 the autism spectrum disorder services provider by such licensed
323 behavior analyst, licensed physician or licensed psychologist for each
324 ten hours of behavioral therapy provided by the supervised provider.

325 (5) "Diagnosis" means the medically necessary assessment,
326 evaluation or testing performed by a licensed physician, licensed
327 psychologist or licensed clinical social worker to determine if an
328 individual has autism spectrum disorder.

329 (b) Each group health insurance policy providing coverage of the
330 type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-
331 469 that is delivered, issued for delivery, renewed, amended or
332 continued in this state shall provide coverage for the diagnosis and
333 treatment of autism spectrum disorder. For the purposes of this section
334 and section 38a-513c, autism spectrum disorder shall be considered an
335 illness.

336 (c) Such policy shall provide coverage for the following treatments,
337 provided such treatments are (1) medically necessary, and (2)
338 identified and ordered by a licensed physician, licensed psychologist
339 or licensed clinical social worker for an insured who is diagnosed with
340 autism spectrum disorder, in accordance with a treatment plan
341 developed by a licensed behavior analyst, [who is certified by the
342 Behavior Analyst Certification Board,] licensed physician, licensed
343 psychologist or licensed clinical social worker, pursuant to a
344 comprehensive evaluation or reevaluation of the insured:

- 345 (A) Behavioral therapy;
- 346 (B) Prescription drugs, to the extent prescription drugs are a
 347 covered benefit for other diseases and conditions under such policy,
 348 prescribed by a licensed physician, a licensed physician assistant or an
 349 advanced practice registered nurse for the treatment of symptoms and
 350 comorbidities of autism spectrum disorder;
- 351 (C) Direct psychiatric or consultative services provided by a
 352 licensed psychiatrist;
- 353 (D) Direct psychological or consultative services provided by a
 354 licensed psychologist;
- 355 (E) Physical therapy provided by a licensed physical therapist;
- 356 (F) Speech and language pathology services provided by a licensed
 357 speech and language pathologist; and
- 358 (G) Occupational therapy provided by a licensed occupational
 359 therapist.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2018</i>	20-185i
Sec. 2	<i>January 1, 2018</i>	New section
Sec. 3	<i>January 1, 2018</i>	New section
Sec. 4	<i>January 1, 2018</i>	New section
Sec. 5	<i>January 1, 2018</i>	New section
Sec. 6	<i>January 1, 2018</i>	19a-14(c)
Sec. 7	<i>January 1, 2018</i>	20-413(6)
Sec. 8	<i>January 1, 2018</i>	10-76ii
Sec. 9	<i>January 1, 2018</i>	10-145t(a)
Sec. 10	<i>January 1, 2018</i>	38a-488b(a) to (c)
Sec. 11	<i>January 1, 2018</i>	38a-514b(a) to (c)

Statement of Legislative Commissioners:

Sections 9 to 11, inclusive, were added to the bill to conform with the changes being made in Section 1 to 4, inclusive, of the bill.

PH *Joint Favorable Subst. -LCO*